

-6-

REMARKS

The present response is to the Office Action mailed in the above-referenced case on August 13, 2003, accorded paper No. 11. Claims 1-14 are pending for examination. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chow et al. (U.S. 5,999,528), hereinafter Chow.

Applicant has carefully studied the newly-presented prior art reference cited and applied by the Examiner, and the Examiner's rejections and statements in the instant Office Action. In response, applicant herein amends the base claims and provides argument to overcome the Examiner's rejection of the claims as indefinite. In response to the Examiner's merit rejections of applicant's claims, applicant herein provides further facts and arguments to more particularly point out the subject matter regarded as inventive, and to establish that the claims distinguish unarguably over the prior art presented. Applicant points out and argues the key and patentable limitations in the base claims that the Examiner appears to have misunderstood or overlooked in his rejections and statements.

Regarding the Examiner's rejection of claims 1 and 8 as indefinite, the Examiner stated that the phrase "a like data port" contained in each claim renders the claims indefinite, and further, that the recitation of "if the number of interface units is less than the number of data communication links in each switch plane" in each claim implies that the interface units are a part of the switch plane, and is thus contradictory to the preamble of the claim.

Applicant herein amends the language of the claims to remove the objectionable phrase "like" in "like data port", and argues that the language of the base claims clearly implies that the data communication are a part of each switch plane, which is true in applicant's invention, and clearly does not imply that the

-7-

✓ interface units are a part of the switch plane, as contended by the Examiner, because the language of the claims simply relate the number of interface units to the number of data communication links. Applicant respectfully points out to the Examiner that the fact of comparing the number of a first element to the number of a second element does not necessarily make the first element part of the second element.

Regarding the Examiner's rejection of applicant's claims on the merits, applicant argues that Chow does not anticipate all of the limitations recited in applicant base claims. The Examiner has stated in the instant Office Action that, regarding claims 1-3, 10 and 11, Chow teaches a switching plane 1 (singular), with a plurality of interface units, where twelve data ports are designated for the interface units, where the interface units connect to the switching plane through ISL5 communication links, and determining a number of switching links to be up to 16 in number 0000-1111.

Applicant has emphasized above the singularity of Chow's switching plane, because Chow clearly only teaches a single switching plane. Figures 1 and 2, and the specification of Chow clearly illustrates and describes only a single switching plane 1. Applicant has carefully and thoroughly reviewed the remaining portions of the reference Chow, and is confident that there is no teaching or suggestion whatsoever of multiple switching planes.

Applicant's base claims as amended specifically recite "the switching fabric being partitioned into a plurality of switch planes, such that each switch plane is assignable to transfer data associated with a data port of the plurality of interface units and each switch plane including multiple switching data communication links each being assignable to transfer data associated with one data port of one of the interface units...", and "determining a number of switching data communication links in each switch plane...", and "if the number of interface

-8-

units is less than the number of switching data communication links in each switch plane, for at least one of the plurality of switch planes..."

Applicant's dependent claims continue to recite language pertaining to not one, but a plurality of switching planes. Applicant argues, therefore, that Chow clearly does not anticipate applicant's plurality of switch planes partitioned from the switching fabric, as is clearly taught in applicant's specification and recited in applicant's claims.

As all of the claims standing for examination, as amended and argued above by applicant, are now clearly and unarguably patentable over the rejections of the Examiner, applicant respectfully requests reconsideration and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,

Steven J. Schwartz et al.

by


Donald R. Boys

Reg. No. 35,074

Donald R. Boys
Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004
(831) 726-1457